

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CATALINA DAVIS,)
Plaintiff)
)
v.) Civil Action number 05-30122-MAP
)
CARABETTA,)
Defendant)

**MOTION TO DISMISS FOR
FAILURE OF PARTY TO ATTEND AT OWN DEPOSITION**

NOW comes the Defendant who, pursuant to Fed.R.Civ.P. 37(d), moves this Honorable Court to DISMISS this action.

As reason therefore, it is stated:

1. On February 7, 2006 Plaintiff was served in-hand with a lawful subpoena requiring her to attend deposition on March 10, 2006.
2. On or about February 22 Defendant's counsel called the Plaintiff to ask if she planned to attend. Plaintiff did not answer the phone, but a message was left.
3. On or about March 2, 2006 Defendant's counsel received a certified letter from Plaintiff saying "I have no way of getting to Revere Mass."
4. Defendant's counsel spoke with Plaintiff by telephone on March 9. Plaintiff said she would not be attending for "personal reasons."
5. On March 10, 2006 at 11:00 a.m. Plaintiff failed to appear before the officer present to take her deposition.

Respectfully Submitted,

March 10, 2006

s/s Attorney Ralph Carabetta
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